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APPENDIX - A

FILED

SEP 23 2005

CATHY A. CATTERSON CLERK

-U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA; et al., No. 05-55483

Plaintiffs, D.C. No. CV-04-09193-GAF

and

MEMORANDUM *

MIRO J. SATALICH, ex rel.,

Plaintiff - Appellant,

v.

CITY OF LOS ANGELES,

Defendant - Appellee.

Appeal from the United States District Court

for the Central District of California

Gary A. Feess, District Judge, Presiding

Submitted September 12, 2005**

Before: REINHARDT, RYMER, and HAWKINS,
Circuit Judges.

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for

decision without oral argument. See Fed. R. App. P. 34(a)(2).

Miro J. Satalich appeals pro se the district court's dismissal of his action under the False Claims Act, in which he sought a default judgment against the City of Los Angeles ("the City"). We have jurisdiction under 28 U.S.C. § 1291. We review de novo, and we may affirm on any ground supported by the record. *Vestar Dev. II, LLC v. Gen. Dynamics Corp.*, 249 F.3d 958,960 (9th Cir. 2001). Satalich's action is premised on his claim that he was entitled in 1999 to intervene in *United States of America v. City of Los Angeles*, USDC No. 77-3047-HP (C.D. Cal.), an action the United States filed in 1977 against the City regarding its discharge of wastewater into Santa Monica Bay. That action resulted in an amended consent decree in 1987, and was closed in 2000, without a ruling on Satalich's motion to intervene. Nothing in the record before us indicates that Satalich ever asserted, let alone established, the basis for his right to intervene in the underlying litigation. See *United States v. Alisal Water Corp.*, 370 F.3d 915, 919 (9th Cir. 2004) (discussing requirements for intervention as of right); *Hook v. State of Ariz., Dep't. of Corr.*, 972 F.2d 1012, 1014-15 (9th Cir. 1992) (discussing requirements for standing to enforce a consent decree). For this reason, and those set forth in the district court's February 7, 2005 order, we conclude the court properly dismissed the action with prejudice.

,.... Satalich's remaining contentions also lack merit.
AFFIRMED.

APPENDIX - B

Case 2:04-cv-09193-GAF-PLA
Document 38

Page 1 of 1
Filed 10/21/2005

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

UNITED STATES OF AMERICA; et al., No. 05-55483
Plaintiffs, D.C. No. CV-04-09193-GAF

and

MIRO I. SATALICH, ex rel.,
Plaintiff - Appellant,

JUDGMENT

v.

CITY OF LOS ANGELES
Defendant - Appellee.

RECEIVED
Clerk, U.S. District Court
OCT 27 2005

Central District of California
By Initial/ Deputy

Appeal from the United States District Court for the Central District of California, Los Angeles. This cause came on to be heard on the Transcript of the Record from the United States District Court for the Central District of California, Los Angeles and was duly submitted. On consideration whereof, it is now here ordered and adjudged by this Court, that the judgment of the said District Court in this cause be, and hereby is,

AFFIRMED.

Filed and entered 09/23/05

A TRUE COPY
CATHY CATTHERSON
Clerk of the Court

DOCKETED ON CM
OCT 28 2005
BY Initial/ 029

ATTEST
9th Circuit Court Seal
OCT 21 2005

by Ruben Talavera
Deputy Clerk

APPENDIX - C

P Send

Link to: 22

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES - GENERAL**

Case No. CV 04.9193-GAF (PLAx) Date: February 7, 2005

Title: United States ex rel. Satalich v. City of Los Angeles

The Honorable Gary Allen Feess, Judge

Marilynn Morris

None Present

Courtroom Deputy Clerk

Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFFS:

None Present ATTORNEYS PRESENT FOR DEFENDANTS:

None Present

PROCEEDINGS: (In Chambers)

RULING ON MOTION TO DISMISS

DOCKETED ON CM

FEB - 8 2005

BY Initial/007

A. BACKGROUND

In 1977, the United States sued the City of Los Angeles relating to the disch wastewater into Santa Monica Bay. United States v. City of Los Angeles, CV 77-3047-HP(the "Santa Monica Bay Action"). The suit was assigned to then District Judge Harry Pregerson, who continued to preside over the suit as a district court judge after his 1979 appointment to the Ninth Circuit Court of Appeal.

In 1987 the parties settled the suit through a consent decree that required the redesign and reconstruction of a substantial portion of the City's Hyperion Wastewater

Treatment Plant, the largest treatment plant west of the Mississippi River. As of late 1998, the City had substantially completed the upgrade and had fulfilled the terms of the consent decree.¹ During the ten-year period of reconstruction, Judge Pregerson continued his supervision of the project until August 7, 2000, when the case was closed.

In March 1999, about 22 years after the suit was filed, pro se Plaintiff Miro Satalich ("Satalich") filed a motion to permit him to file a complaint in intervention in that case. With that motion pending, Judge Pregerson ordered the case closed (Pet. Ex. 1, at 3, Docket No. 328), thus denying, sub

30

MINUTES FORM 11

CIVIL-GEN

Initials of Courtroom Deputy Clerk I/____

silentio, the motion to intervene. Satalich has now brought the pending lawsuit in which he asks)his Court to reopen the 1977 case and issue an order to show cause why the City, which never tj answered a complaint that was never ordered filed by Judge Pregerson, should not be adjudge default. The City now moves to dismiss.

B. DISCUSSION

1. The Standard

A motion to dismiss a complaint tests the legal sufficiency of the claims asserted. Fed. R. Civ. P. 12(b)(6). Dismissal pursuant to Rule 12)(6) is proper where there is

¹ The background information regarding the Santa Monica Bay Action is taken from the City's memorandum in support of its motion to dismiss. (Mot. at 1-2). It is used solely to provide a narrative context for the facts alleged In Satalich's Petition, and bears no weight in the Court's ruling.

either a "lack of a cognizable legal theory" or "the absence of sufficient facts alleged under a cognizable legal theory." *Balistreri v. Pacifica Police Dep't* 901 F.2d 696, 699 (9th Cir. 1988). In making that determination, the Court accepts all factual allegations pleaded in the complaint as true: in addition, it construes those facts and draws all reasonable inferences from them in favor of the nonmoving party. *Cahill v. Liberty Mut. Ins. Co.*, 80 F.3d 336, 337-38 (9th Cir. 1996). In ruling on a motion to dismiss, a court may also rely on documents presented as part of the complaint, or on matters that are properly subject to judicial notice. See *Hal Roach Studios, Inc. v. Richard Feiner & Co.*, 896 F.2d 1542, 1555 (9th Cir. 1989); *Branch v. Tunnell*, 14 F.3d 449, 453-54 (9th Cir. 1994); *MGIC Indem. Corp. v. Weisman*, 803 F.2d 500, 504 (9th Cir. 1986).

2. The Complaint in Intervention

The present complaint presents the Court with the novel theory that Satalich should be permitted to seek a default judgment on a complaint in intervention that was never ordered filed with the court and therefore never properly served on the allegedly defaulting party. Why should the Court take such action? Satalich offers no pertinent authority, but does present several unusual arguments.

First, Satalich contends that Judge Pregerson, as an appellate court judge had no jurisdiction over the action under 28 U.S.C. § 47, and since he had no jurisdiction he could not have denied Satalich's motion to intervene. Section 47 provides: No judge shall hear or determine an appeal from the decision of a case or issue tried by him: 28 U.S.C. § 47. Plainly it has no application in this case. See *United States v. Zarowitz*, 326 F. Supp. 90, 92 (C.D. Cal. 1971). Moreover, as the City notes, 28 U.S.C. § 291 (b) specifically authorized Judge Pregerson's continued service as a district court judge in

the Environmental Action, even after he was appointed to the Ninth Circuit. Because the statute speaks of "temporary" assignments, Satalich contends that the statute is not applicable because Judge Pregerson's assignment was "permanent." However, the United States Supreme Court, in *Johnson v. Manhattan R. Co.*, 289 U.S. 479 (1933), held that § 291(b) authorizes "[a]ssignments to hear particular cases: *Id.* at 500 (emphasis added). Accordingly, Satalich's argument that Judge Pregerson's assignment to hear the Environmental Action violated § 291 (b) because it lasted for the life of a particular case is without merit.

Second, Satalich contends that Judge Pregerson was disqualified by a conflict of interest because he sat as a Municipal Court judge from 1965 to 1966, and he swore in Mayor James Hahn in 2001. In other words, based on his employment more than a decade before the Santa Monica Bay Action was filed, and an event that occurred after that suit was closed, Satalich finds a conflict of interest. This argument also clearly lacks merit.

The grounds for disqualification of federal judges are controlled by two statutes: 28 U.S.C. § 144 and § 455. 'Section 144 provides:

Whenever a party to a proceeding in a district court makes and files a timely and sufficient affidavit that the judge before whom the matter is pending has a personal bias or prejudice either against or in favor of any adverse party, such judge shall proceed no further therein but another judge shall be assigned to hear such proceeding. The affidavit shall state the facts and the reasons for the belief that bias or prejudice exists. . . . A party may file only one such affidavit in any case.

28 U.S.C. § 144. Section 455 "requires a judge to recuse

himself in any case in which his impartiality might reasonably be questioned.

A motion to recuse under either statute must be timely. See *Lilieberg v. Health Servs. Acquisition Com.*, 486 U.S. 847 (1988) (noting that "a 10-month delay would normally foreclose vacatur based on a § 455(a) violation"); *Polizzi v. United States*, 926 F.2d 1311, 1321 (2d Cir. 1991) (holding that defendant "waived the claim that [the judge] should have recused himself when he failed to timely move for such recusal pursuant to 28 U.S.C. § 144 or 28 U.S.C. § 455"). Making such a motion more than four years after the suit terminated fails to satisfy the timeliness requirement. Moreover, the motion fails to meet any of the substantive requirements necessary to establish a ground for recusal.

The standard for recusal is the same under both sections: "Whether a reasonable person with knowledge of all the facts would conclude that the judge's impartiality might reasonably be questioned." *United States v. Hernandez*, 109 F.3d 1450, 1453-54 (9th Cir. 1997) (per curiam) (quoting *United States v. Studley*, 783 F.2d 934, 939 (9th Cir. 1986)). The facts to which Satalich points fall far short of meeting this standard.

Satalich first asserts that Judge Pregerson should have been disqualified from hearing a case against the City because he was a Los Angeles Municipal Court judge from 1965 to 1966. (Pet. at 5; Ex. 2). Satalich's reasoning leads to absurd results. Under Satalich's theory, no federal judge could hear a case against the United States because he sits on the federal bench nor could any state court judge hear a case against the state because she sits off the state bench. No reasonable person would question Judge Pregerson's ability to impartially resolve a dispute against the City merely because he was a Municipal

Court judge a decade before the Santa Cf. *United States v. Alabama*, 828 F.2d 1532; 1543 (11th Cir. 1987) ("It is well settled that the facts pleaded. . . will not suffice to show the personal bias required by the statute if they go to the background and associations of the judge rather than to his appraisal of a party personally.").

Satalich also alleges-a conflict of interest based on the fact that Judge Pregerson "personally met with City officials outside the Court room" on July 3, 2001, almost a year after the Santa Monica Bay Action was closed. (Pet. at 5). In support of this allegation, Satalich directs the Court to Exhibit 3 of his Petition, which is a newspaper report of the swearing in of the newly-elected Mayor James Hahn. (Pet. Ex. 3). The report recounts that Hahn was "administered the oath of office by U.S. Circuit Judge Harry Pregerson." (Id.). Thus, Satalich makes the puzzling claim that a reasonable person would question Judge Pregerson's ability to impartially judge the Santa Monica Bay Action because after the litigation ended, Judge Pregerson acted in his official capacity at a public ceremony to swear in one the City's public officials. This bizarre argument fails to support any inference that Judge Pregerson exhibited bias toward either side during the course of the earlier litigation.

3. The Alleged Default in the Present Action

In his opposition, Satalich also argues that the City has failed to timely respond to the present suit and therefore he is entitled to an entry of default, which would cut off the City's right to appear and defend this action. (Opp. at 3); see William W Schwarzer, et al., *California Practice Guide: Federal Civil Procedure Before Trial* ("Schwarzer") § 6:42 (2004) ("Entry of a defendant's default cuts of his or her right to appear in the action or present evidence") (citing *Clifton v. Tomb*, 21 F.2d 893, 897 (4th Cir. 1927); *Cohen v. Murohv*, 2004 U.S. Dist.

LEXIS 25284,1-2 (N.D. Cal. 2004) (same).

Default may be entered by the Clerk if the defendant has "failed to plead or otherwise defend" within the permitted time. Fed. R. Civ. P.55. However, it is well established that "filing of a motion to dismiss fall[s] squarely within the ambit of the phrase otherwise defend and prevents the entry of default. In re Sumitomo Copper Litig., 204 F.R.D. 58, 61 (S.D.N.Y. 2001); see also Ashby v. McKenna, 331 F.3d 1148, 1152 (10th Cir. 2003) (holding that plaintiffs request for entry of default was properly denied where request was made' while motion to dismiss was pending): Wickstrom v. Ebert, 101 F.R.D. 26, 33 (E.D. Wis. 1984) (it is undisputed that motions challenging a complaint for failure to state a claim upon which relief can be granted, fall squarely within the ambit of the phrase 'otherwise defend.'") Even a late-filed motion to dismiss prevents entry of a default. See Mitchell v. Brown & Williamson Tobacco CORP., 294 F.3d 1309, 1317 (11th Cir. 2002) (refusing default entry where motion to dismiss filed short time after deadline for responsive pleading).

Here, Satalich has twice requested the Clerk to enter default against the City. On December 14, 2004, Satalich first requested that the Court Clerk enter default against the City on the basis that the City had failed to respond timely to his Petition, which was served on the City Attorney's Office.²

² On November 12, 2004, Satalich served his Petition on the City Attorney's Office. (Id. Docket No.4). After receiving the Petition, the City Attorney's Office advised Satalich by letter that it was not authorized to accept service of process on the City's behalf, and that "[i]n order to compel the City of Los Angeles to respond to your petition, you will need to serve the City. . . through the Office of the City Clerk." (Id. Docket No. 12, City's Special Appearance Ex. 1). In response to the City's letter. Satalich requested a ruling from the Court as to whether the City was

(CV-04-9193 Docket No. 10). The Clerk rejected Satalich's request, noting that his proof of service was lacking required information. (*Id.* Docket No. 11). Specifically, the proof of service did not indicate the first name of the person served or that person's capacity to accept service of process for the City. (*Id.*). The notice advised Satalich to file a "new Request/Application with noted deficiencies corrected in order to have default reconsidered." (*Id.*).³

On December 20, 2004, Satalich re-served his Petition on a Deputy City Clerk, who was expressly authorized to accept service on behalf of the City. (*Id.* Docket No. 17). The docket indicates the City's response was due January 9, 2005. (*Id.*). On January 11, 2005, the City filed the instant motion to dismiss, twenty-two days after service.⁴ On January 18, 2005, Satalich once again filed a request for entry of default (*Id.*,

properly served. (*Id.* Docket No.5). The Court advised Satalich by minute order that it would not issue an advisory opinion.. (*Id.* Docket No. 9). The order also advised that if the Defendant brought a motion to dismiss for improper service, the Court would address the issue at that time. (*Id.*).

³ To obtain entry of default, a plaintiff "must present proof to the court clerk (by affidavit or declaration) that the defendant is in default" – i.e., that defendant has been served with summons and complaint. . . and has failed to respond with the time permitted by the Federal Rules." Schwarzer § 6:36 (emphasis added). Here, the Clerk determined that Satalich's proof of service on the City was inadequate

⁴ The City was required to serve rTS responsive pleading by Sunday, January 9, 2005 under Fed. R. Civ. P. 12(a)(1)(A). However, because the last day to serve was a Sunday, the City had until Monday, January 10 to complete service under Fed. R. Civ. P. 6(a). The City asserts it timely served Satalich by mail on January 10th and January 11th. However, the proof of service attached to the Court copy of the opposition indicates only that the document was served on January 11th.

Docket No. 23). The Clerk rejected the request, noting that a motion to dismiss was pending. (Id, Docket No. 24).

The Clerk properly denied Satalich's request. When the City filed its motion to dismiss on January 11, 2005, no default had yet been entered.⁵ Schwarzer § 6:3 ("If no default has yet been 'entered,' the clerk must accept for filing defendant's pleadings or motions although they are filed late. Once they are filed, it is too late for entry of default.") (emphasis added). When Satalich filed his second request for entry of default on January 18th, the City's motion was already pending.~ Thus, Satalich is not entitled to an entry of default in response to his January 18th request because the City had, by January 18th, already filed a motion to dismiss - even if it was one day late. See Ashby, 331 F.3d at 1152 (stating that vacating the Clerk's denial of request for entry of default while motion to dismiss was still pending would have been an abuse of discretion); see also Mitchell, 294 F.3d at 1317 (refusing entry of default even though motion to dismiss was filed after deadline for responsive pleading). Accordingly, Fed. R. Civ. P. 55 does not apply to prevent the City from defending the instant case.

C. CONCLUSION ..

The motion to dismiss is **GRANTED WITHOUT LEAVE TO AMEND**. The pending suit is **DISMISSED WITH PREJUDICE**.

IT IS SO ORDERED.

⁵ As noted above, the Clerk had rejected Satalich's December 14, 2004 request for entry of default due to deficiencies in proof of service (Docket No. 11). which Satalich did not seek to correct until January 18, 2005 - after the motion to dismiss had already been filed.

APPENDIX - D

Miro J. Satalich
P.O. Box 93314
Phoenix, Arizona 85070 -93314
(480) 283-0355

Pro se

FILED
CLERK U.S. DISTRICT COURT
FEB 4 2005
CENTRAL DISTRICT OF CALIFORNIA
BY DEPUTY

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

THE UNITED STATES OF AMERICA, and;
THE STATE OF CALIFORNIA, and;
ex rel. MIRO J. SATALICH

Plaintiffs, Petitioner,

vs. CASE No. CV-04-9193-GAF(PLAx)

THE CITY OF LOS ANGELES,
Defendant.

**- RESPONSE AND REBUTTAL TO
CITY OF LOS ANGELES'S
MOTION TO DISMISS DOCUMENT
DATED: JANUARY 31, 2005
REINFORCEMENT FOR
DEFAULT JUDGEMENT**

Hearing date: February 7, 2005

Time: 9:30 A.M.

Place: Roybal

Courtroom: 740

Judge: Honorable Gary A. Fees

#31

DUPLICATE

Page 1

**RESPONSE AND REBUTTAL TO CITY'S MOTION TO
DISMISS DATED: JANUARY 31, 2005**

(1) Refer to Defendant's pleading dated January 31, 2005, page 1, line 1, ¶1. The Defendant cited Fed.R.Civ.P.12(b)(6), which is: "failure to state a claim upon which relief can be granted", which is absolutely nonsense. It must be remembered, that this action is a "Noticed Show Cause." The claim is awarding "default judgement" nonetheless, the Plaintiff's claim was clearly spelled out throughout all documents filed as a violation of Title 31 U.S.C. § 3730(h). As required by FRCP, Rule 55, affixed to all pleadings, and evidence submitted on 4/24/2001 into CV-77-3047HP, Docket Entry #333, was a notarized "Declaration and Sworn Affidavit." Dated: April 21, 2001. No other document(s) should be required.

(2) **The Defendant also cited FRCP - "Local Rule 7-12."**

"The failure to file a timely opposition may be deemed a consent to granting of the City's motion under Local Rule 7-12."

Refer again to Docket Entry #22, and/or Defendant's pleading dated January 31, 2005, page 3, line 7, paragraph 5. According to Docket Entry #22, and by the City's own admission is, in default. Therefore, pursuant to "**FEDERAL RULES OF CIVIL PROCEDURE, II. Commencement of Action; Service of Process, Pleadings, Motions and Orders, Rule 5-- Service and Filing of Pleadings and Other Papers**" (a), Service: Due to the admission by the Defendant of being in "Default," the Plaintiff asserts pursuant to **FRCP, Rule 5(a)** was under no obligation to answer to Defendant's pleading of January 11, 2005, filed as Docket Entry #22, nor should he be penalized for responding, or not responding to same. The Plaintiff further asserts that, by the Defendant admitting to

filing late, and then filing a "Motion to Dismiss" should have no standing to cite FRCP, L.R. 7-9, or L.R. 7-12 onto the Plaintiff, because FRCP Rule 5(a) should trump L.R. 7-9, or L.R. 7-12.

REINFORCEMENT OF PLAINTIFF'S CLAIM OF SHOW CAUSE OF WHY DEFAULT SHOULD NOT BE AWARDED TO PLAINTIFF USING THE CITY'S THEORY OF FRCP, LOCAL RULE 7-9, 7-12,

(3) The City of Los Angeles can't have it both ways. Refer again to Defendant's Document dated January 31, 2005, page 1, ¶1. Reversing the City's theory of Plaintiff's failure to file a timely opposition may be deemed a consent to granting of the City's motion under local Rule 7-12," would also have to first apply to the City for not responding to the Plaintiff's "Intervention Motion" filed on March 19, 1999. Meanwhile, using the City's theory, the Plaintiff contends that in accordance with FRCP, L.R. 7-9, and 7-12, when the City failed to respond to, or file an objection thereto, to the Plaintiff's March 19, 1999 "Motion" to "Intervene," the City automatically fell into FRCP, Rule 55, Default. Following this further, any Federal Judge, District or Appellate, would have to rule "default judgement" in favor of the Plaintiff.

(4) In light of the given evidentiary facts by the Plaintiff and admissions by the Defendant, City of Los Angeles, the Plaintiff believes the Court can only rule this show cause one way, that being to enter default judgement.

Respectfully submitted by:

s/_____,
Miro J. Satalich P.O. Box 93314
Phoenix, Arizona 85070 - 93314
Tel: 480 283-0355

Date: February 3, 2005

APPENDIX - E

DOCKET NO.: 77-3047HP, as obtained from:
National Archives and Records Administration
Office of Regional Records Services - Pacific Region
Attn: Trust Fund Unit
24000 Avila Road, 1st Floor, East Entrance
Laguna Niguel, California 92677-3497.

(In part)

Page 1 of 15 Pages

0973 2 | 77 | 3047 | 8 | 12 | 77 | 1 | 893 | 1 | 7316 | 77 | 3047R

United States of America |

| City of Los Angeles

Court use only

United States district Court

Central District of California

Archive Location

File Case No.: CV 77-3047

Accession No.: 21910023

FRC Location: 4519358

Agency Box No.: 5/7 Fld 18 cause

Complt for Injunctive relief

Civil Docket Continuation Sheet

Plaintiff	 Defendant CV	
		Docket No.: 77-3037HP
		Page 14 of ____ Pages

Date	 NR. 	Proceedings
(Note, only last entries from 321 to 333 are shown)		

3/19/99	al	<p>321. Mot for complt in intervention. Intervenor, pltf Miro J. Satalich in Pro per. Lodged prop Complt in Intervention.</p> <p>322. P/S of Mot for Complt Intervention and Complt in intervention for clm of harassment, threats and discrim by mail (see doc for attached svc list) on 3/19/99.</p>
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(See pg 15)

Civil Docket Continuation Sheet

Plaintiff	 Defendant CV	
		Docket No.: 77-3037HP
		Page 15 of ____ Pages

Date	 NR. 	Proceedings
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3/29/99	al	<p>323. Rpt on stat of pretreatment clms agnst remaining dfts. Pltfs</p>
4/9/99	al	<p>324. P/S of Mot for comp intervention & cmp in intervention for</p>

clm of harassment, threats & discrim
 srvd by mail to dept of Justice, Janet
 Reno, Ofc of Regional Cnsl, Hugh
 Barroll, Atty, State of CA, Bill
 Lockyer, Atty Gen., State of CA Atty
 Gen Office, Bill Lockyer, & City of
 L.A. c/o City Clerk on 3/19/99.

- | | | |
|-----------------|-----|---|
| 6/25/99 | al | 325. Amd consent decree qtrly
update rpt, April 1, 1999 subm by dfts,
City of L.A. |
| 12/30/99 | al | 326. Ntc of lodging of consent decree,
Modification to amd consent decree—
City of L.A. & consent decree— City of
Burbank. Pltfs |
| * 8/7/00 | lk | 327. Modification to amend consent
decree by Judge Harry Pregerson. The
Crt shall retain jurisd to enforce the
terms and conditions of this Consent
Decree. (ENT 8/7/00) MD-JS-6 mld
cpys |
| * 8/7/00 | lk | 328. Consent Decree – City of
Burbank by Judge Harry Pregerson.
The Crt shall retain jurisd to enforce
the terms and conditions of this
Consent Decree. (ENT 8/7/00) MD-JS
mld cpys |
| 5/23/00 | lpc | 329. Status Report – USA |
| 7/21/00 | lpc | 330. Status Report – USA |

- 8/7/00 lpc * 331. Amd Ntc to the Crt and request for Entry of Consent Decree by Pla USA.
- 8/14/00 lk 332. Ntc of discrepancy that Mot for Cmp-In-Intervention ldg on 8/7/00 is not to filed but rejected and returned to cnsl by Richard Janisch, Manager (case closed on 8/7/00).
- 9/8/00 lc 333. Ntc of discrepancy mot fr complt in intvn (und seal) w/cmp in intvn by Miro J. Satalich; case closed 8/7/00, orig mot fr intvn rejected 8/14/00 NOT BE FLD, but REJECTED by R. Janisch, mgr.
- 4/24/01 lc DOCUMENT RECEIVED & RETURNED: Reg Y P/A re dflt agsnt county of Los Angeles on Satalich cmp in intervention; cmp in intervention was rejected on 9/8/00, case being closed as of 8/7/00

APPENDIX - F

**UNITED STATES, DISTRICT COURT CENTRAL
DISTRICT OF CALIFORNIA
WESTERN DIVISION**

**312 North Spring Street, Room G-8
Los Angeles, CA 90013
213-894-4445
Fax 213-894-4422**

**SHERRI R. CARTER
District Court Executive
and
Clerk of Court**

**SOUTHERN DIVISION
411 West Fourth Street
Suite 1053
Santa Ana, CA 92701-4516
714-338-4750**

September 15, 2000

**Mr. Miro I. Satalich
4125 Lorraine
Road Rancho Palos Verdes-, CA 90275**

**EASTERN DIVISION
4100 Main Street. Rm. 137-A
Riverside. CA 92501
909-276-6170**

Dear Mr. Satalich:

A review of the docket entries posted in Civil Case 77-3047-HP United States of America vs. City of Los Angeles, which was closed on August 7, 2000, indicates that your motion for complaint in intervention filed on March 19, 1999, and the lodged proposed complaint in intervention is still pending. The Clerk's Office was able to locate your original motion for complaint in intervention filed on March 19, 1999, but not the lodged complaint in intervention. Please provide me with a duplicate original of your proposed complaint in intervention for Judge Pregerson's review and determination. If you have any question, please call me at (213) 894.3651. Very truly yours,

S/ _____
Richard F. Janisch
Manager of Court Operations

APPENDIX - G

TIME LINE for CV-77-3047-HP, and
CV-00-08882GAF, and CV-04-9193GAF)PLAx)

Date: 07-14-1998

Case No.: CV-77-3047HP

Docket No.: NA

Document: Obtained civil copy of Docket from the National
Archives, Laguna Niguel, CA

Archive Location

File Case No.: CV 77-3047

Accession No.: 21910023

FRC Location: 4519358

Agency Box No.: 5/7 Fld 18 cause

Date: 03-19-1999

Case No.: CV-77-3047HP

Docket No.: **321**

Document: Filed Motion for Complaint in Intervention into
CV-77-3047HP.

Date: 03-19-1999

Case No.: CV-77-3047HP

Docket No.: **321**

Document: Filed Complaint in Intervention for Claim,
Threats, and Discrimination into CV-77-3047HP.

Date: 03-19-1999

Case No.: CV-77-3047HP

Docket No.: **322**

Document: Filed Proof of Service for 03-19-1999 filings.

Date: 04-09-1999

Case No.: CV-77-3047HP

Docket No.: **324**

Document: Filed Proof of Service for all parties served on 03-19-1999 filings.

Date: 09-29-1999

Case No.: CV-77-3047HP

Docket No.: NA

Document: Letter of status inquiry to USDC, Correspondence Clerk for 03-18-1999 filings.

Date: 10-06-1999

Case No.: CV-77-3047HP

Docket No.: NA

Document: Letter and check for \$15.00 to USDC-CDCA
Corr. Clerk for status report info on 03-19-1999 filings.

Date: 01-05-2000

Case No.: CV-77-3047HP

Docket No.: NA

Document: Letter to Michael Hertz, USDOJ requesting status report of 03-19-1999 filings.

Date: 03-29-2000

Case No.: CV-77-3047HP

Docket No.: NA

Document: Letter to Appellate Judge Harry Pregerson,
inquiry to status of 03-19-1999 filings.

Date: 03-29-2000

Case No.: CV-77-3047HP

Docket No.: NA

Document: Proof of mailing to Judge Pregerson on 03-29-2000

Date: 03-29-2000

Case No.: CV-77-3047HP

Docket No.: **329**

Document: First status report to the court from the USDOJ for investigation of 03-19-1999 filings.

Date: 07-21-2000

Case No.: CV-77-3047HP

Docket No.: **330**

Document: Second status report to the court from the USDOJ for investigation of 03-19-1999 filings.

Date: 07-31-2000

Case No.: CV-77-3047HP

Docket No.: **NA**

Document: Letter from US Congressman Steven Kuykendall regarding bio info on Ms. Felicia Marcus.

Date: 08-07-2000

Case No.: CV-77-3047HP

Docket No.: **332**

Document: Checked w/Court Clerk. CV-77-3047HP was still open. Filed Motion for Complaint in Intervention .

Date: 08-07-2000

Case No.: CV-77-3047HP

Docket No.: **333**

Document: Checked w/Court Clerk, CV-77-3047HP was still open. Filed under seal, full qui tam Motion and Complaint in Intervention into CV-77-3047HP.

Date: 08-14-2000

Case No.: CV-77-3047HP

Docket No.: See **333**

Document: Notice of Document Discrepancies, stating CV-77-3047HP was closed on August 7, 2000, by Appellate Judge Harry Pregerson.

Date: 08-22-2000

Case No.: CV-00-08882GAF

Docket No.: 1

Document: Filed new case USA, State of California, and ex rel. Miro J. Satalich Case No.: CV-00-8882-GAF (Under Seal)

Date: 09-08-2000

Case No.: CV-77-3047HP

Docket No.: **333**

Document: Notice of Document Discrepancies stating CV-77-3047HP was closed on August 7, 2000.

Date: 09-15-2000

Case No.: CV-77-3047HP

Docket No.: NA

Document: Letter from Richard Janisch, Manager of Court Operations stating(in part): "A review of the docket entries posted on Civil Case 77-3047-HP United States of America v. City of Los Angeles, which was closed on August 7, 2000, indicates that your motion for complaint in intervention filed on March 19, 1999, and the lodged complaint is still pending." "The Clerk's Office was able to locate your original motion in intervention filed on March 19, 1999, but not the lodged proposed complaint in intervention." "Please provide me with a duplicate original of proposed complaint in intervention for Judge Pregerson's review and determination." Signed, Richard F. Janisch , Court Manager.

Date: 04-21-2001

Case No.: CV-77-3047HP

Docket No.: **Last Entry**

Document: Notice of Request Entry of Default Judgment,
Notarized

Date: 04-23-2001

Case No.: CV-77-3047HP

Docket No.: **Last Entry**

Document: Filed: Notice of Request of Entry for "Default
Judgment" Against the Defendant City of Los Angeles,
Memorandum of Points of Authority and Affidavit Thereof -
With Accompanied Evidentiary List.

Date: **04-23-2001**

Case No.: CV-77-3047HP

Docket No.: **Last Entry**

Document: Filed: Notice of Request of Entry for "Default
Judgment" Against the Defendant City of Los Angeles,
Evidentiary List Exhibits- "A" to Exhibits-"N"

Date: **05-15-2001**

Case No.: CV-00-08882GAF

Docket No.: **42**

Document: Notice of Court rejecting Plaintiff's Summary
Judgment.

Date: **05-24-2001**

Case No.: CV-00-08882GAF

Docket No.: **43**

Document: District Judge Gary A. Feess attempted to transfer
CV-00-8882GAF to Appellate Judge Harry Pregerson.

Date: **07-03-2001**

Case No.: CV-04-9193GAF

Docket No.: Show Cause

Document: News Paper Torrance Daily Breeze, Judge H. Pregerson swearing in new Mayor of City of Los Angeles James Hahn.

Date: **06-04-2004**

Case No.: CV-77-3047HP

Docket No.: **Entire Civil Docket**

Document: Obtained updated Civil Docket from National Archives, Laguna Niguel.

Date: **06-05-2004**

Case No.: CV-77-3047HP

Docket No.: NA

Document: Obtained Bio, Appellate Judge Harry Pregerson.

Date: **11-08-2004**

Case No.: CV-04-9193GAF

Docket No.: **1**

Document: Filed "Noticed Show Cause" of why "Default Judgement" should not be awarded to Plaintiff" for failure of Defendant to plead in CV-77-3047HP, March 19, 1999 filing

Date: **03-01-2005**

Case No.: CV-04-9193GAF

Docket No.: **1 thru 33**

Document: Civil Docket CV-04-9193-GAF

Date: **02-07-2005**

Case No.: CV-04-9193GAF

Docket No.: **30**

Document: Civil Minute Order, Ruling on Motion to Dismiss-"The motion to dismiss is GRANTED WITHOUT

27a

LEAVE TO AMEND, The Pending suit DISMISSED WITH
PREJUDICE."

APPENDIX - H

No. 04-1420

Title: Miro J. Satalich, Petitioner

v.

City of Los Angeles, California

Docketed: April 25, 2005

Lower Ct: United States Court of Appeals for the Ninth
Circuit Case Nos.: (04-56758)

Decision Date: November 23, 2004

Rehearing Denied: December 29, 2004

~~~~~Date~~~~~Proceedings and Orders~~~~~

Feb 28 2005 Petition for a writ of certiorari filed.

(Response due May 25, 2005)

Feb 28 2005 Supplemental Appendix of Miro Satalich filed.

May 12 2005 Waiver of right of respondent City of Los  
Angeles, California to respond filed.

May 24 2005 DISTRIBUTED for Conference of June 9,  
2005. Jun 13 2005 Petition DENIED.

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~~~~~Name~~~~~Address~~~~~Phone~~~~~A

ttorneys for Petitioner:

Miro J. Satalich P.O. Box 93314 (480) 283-0355
Phoenix, AZ 85070-93314

Party name: Miro Satalich

Attorneys for Respondent:

Robert Cramer (213) 473-6858

Los Angeles City Attorney
200 No. Main Street, Room 900
Los Angeles, CA 90012

Party name:

City of Los Angeles, California

APPENDIX - I
Congressional Seal
Congress of the United States
House of Representatives

Steven T. Kuykendall
36th District, California
512 Cannon House Office Building
Washington, DC 20515-0536
(202) 225-8220
Fax: (202) 225-7119

Committees
Etc.

July 31, 2000

Mr. Miro Jack Satalich
4125 Lorraine Road
Rancho Palos Verdes, California 90275

Dear Mr. Satalich:

Thank you for contacting me about the appointment of Ms. Felicia Marcus. I appreciate hearing from you and apologize for the delay in responding. The United States Environmental Protection Agency divides the country into ten regions, appointing a regional administrator to oversee environmental policy decisions for each region. The regional administrator is appointed by the president and serves for a time subject to each presidential administration. California is covered by Region Nine, which is overseen by Felicia Marcus. Ms. Marcus was appointed by President Clinton in 1993 and confirmed by the U.S. Senate. Before her appointment, Ms. Marcus, was the president of the Board of Public Works for the city of Los Angeles. For further information regarding Ms. Marcus' career, I have enclosed a copy of her resume for your review. r Once again, thank you for your comments. Please do not hesitate to contact me if you have other comments or questions.

Sincerely,

S/

STEVEN T. KUYKENDALL

Member of Congress

STK:mf

Enclosure

Felicia Marcus

Felicia Marcus has served as regional administrator of U.S. Environmental Protection Agency (EPA) Region 9 since 1993. The office addresses environmental problems in California, Arizona, Nevada, Hawaii, the Republic of Palau, the Federated States of Micronesia, the Republic of the Marshall Islands, the territories of Guam and American Samoa, and the Commonwealth of the Northern Mariana Islands, as well as those on the lands of federally recognized Indian tribes. During her tenure at EPA, Ms. Marcus has focused on establishing greater accessibility and working relationships between EPA and the public it serves - sovereign Indian nations and former territories, environmental and community groups, state and local governments, and business and agricultural interests, most effectively protecting public health and the environment. Before joining EPA, Ms. Marcus served as the president of the Board of Public Works of the city of Los Angeles, California. In that position, she led the 6,700 employees of the city's Department of Public Works who have responsibility for the city's wastewater, solid waste (including recycling), street maintenance, street lighting, street trees, and major construction contracting programs. The department also worked with public- and private-sector groups on such specialized programs as waste minimization, graffiti abatement, motion picture permitting; and water reclamation. Ms. Marcus presided over the department through a time of great change and challenge; during her tenure, the department won numerous national awards for its ambitious

initiatives and achievements in wastewater treatment, recycling and source reduction.. and pollution prevention. Ms. Marcus also has extensive experience as a private-sector and public interest lawyer, as well as a community organizer. She is perhaps best known locally for her work to clean up Santa Monica Bay, most notably as a founder and general counsel to the organization Heal the Bay. She has served as the director of litigation for Public Counsel, a public interest law firm; an associate at the law firm of Munger, Tolles & Olson; a visiting fellow at the Center for Law in the Public Interest; a law clerk to the Honorable Harry Pregerson ; (9th Circuit Court of Appeals); and legislative assistant to former Representative Anthony C. Beilenson (D).